IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

MFA.No. 781 of 2000

(O.P.(MV).753/95 of the MACT, ERNAKULAM)
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APPELLANT/PETITIONER:

DILIP KUMAR L.ZAVERI, AGED 44 YEARS,
S/O SRI.LAXMICHAND R.ZAVERI, H.NO.XL
1/1592-A, K.P.VALLIN ROAD,
KOCHUKADAVANTHRA, COCHIN - 20.

BY ADV. SRI.ANIL S.RAJ
SMT.RAJANI.K.N.

RESPONDENTS/RESPONDENTS:

1. K.B.BIJU, PRASANTH HOUSE, PALLURUTHY,
COCHIN - 6.

2. MALCIM MEWNIZ, S/O SRI.JOSEPH MEWNIZ,
VELIPARAMBIL HOUSE, PALLURUTHY.

3. THE ORIENTAL INSURANCE CO. LTD., KOCHI-16.

R1 & R2 BY ADV. SRI.K.S.BALAKRISHNAN
R3 BY ADV. SRI.P.V.JYOTHI PRASAD

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 29/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No. 781 of 2000

JUDGMENT

Koshy, J.

The appellant was an authorised assistant of Cochin Stock Exchange Ltd. He met with a motor accident while he was travelling in a scooter due to the negligence of the driver of the vehicle insured with the third respondent. He claimed a total amount of Rs.6,72,750/- as compensation. Exhibit A10 salary certificate produced shows that his salary at the time of the accident was Rs.4,000/-. The tribunal accepted the same. He also produced a disability certificate showing that there is thirty percent disability. Even without examining the doctor, the Tribunal accepted the disability certificate produced by the petitioner and granted compensation for thirty percent disability. However, for granting disability compensation Rs.1,500/- was taken as the

multiplicand, taking into account the fact the he did not lose his job and continued his job after the accident, as deposed to by the appellant as PW1. But, at the same time, multiplier of 15 was used considering the age of the claimant at the time of the accident. The medical expenses were reimbursed. Taking into account Exhibit A10 salary certificate and taking into consideration that about twelve months he must not have worked Rs.48,000/- was granted towards loss of earning capacity. Therefore, for the fracture of femur, tibia and fibula with peroneal nerve palsy and puncture wound over the knee, the total compensation awarded by the Tribunal was Rs.2,28,000/- with interest at 12% per annum from the date of application, i.e.18.5.1995, till date of realisation. The award was passed on 23.10.1999. Considering the nature of injuries, consequences of injuries on the applicant and total compensation awarded, we are of the view that no grounds are

made out for enhancing the amount of compensation at the instance of the appellant/claimant.

The appeal is dismissed.

(J.B.Koshy, Judge)

29th May, 2007

(K.P.Balachandran, Judge)

tkv

J.B.Koshy & K.P.Balachandran, JJ.

M.F.A.No.781 of 2000

JUDGMENT

29th May, 2007